

## **Welcomed and valued:**

Supporting disabled learners  
in medical education and training

### **Chapter 3:**

What is expected  
of medical education  
organisations and  
employers?

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**This chapter is for:** Medical schools, postgraduate deans and their teams, including foundation schools, local education providers. Doctors' employers may also find this chapter helpful.

## Key messages from this chapter

There are two overriding expectations for all medical education organisations in the UK with respect to disability. This applies to medical schools at the undergraduate level and deaneries or Health Education England (HEE) local teams at the postgraduate level.

Firstly, organisations must comply with UK equality legislation. Secondly, organisations must meet our standards and requirements for medical education and training in the UK.

Complying with equality legislation means:

- Not treating a student or doctor worse than another learner because of their disability. This is called direct discrimination.
- Recognising a disabled learner can be treated more favourably. It is not direct discrimination against a non-disabled learner to do this.
- Making sure learners with a disability are not particularly disadvantaged by the way an organisation does things, unless this is a 'proportionate way' to achieve a 'legitimate aim' of the organisation, e.g. maintaining education standards or health and safety. Disadvantaging learners this way is called indirect discrimination.
- Not treating a learner badly because of something connected with their disability. This is called discrimination arising from a disability.
- Avoiding victimisation and harassment.
- Making reasonable adjustments: Organisations must take positive steps to make sure disabled learners can fully take part in education and other benefits, facilities and services. This includes:
  - Expecting the needs of disabled learners.
  - Avoiding substantial disadvantage for disabled learners from way things are done, a physical feature, or the absence of an auxiliary aid.
  - Thinking again if an adjustment has not been effective.
  - Considering support on a case by case basis and deciding what adjustment(s) would be 'reasonable' for each person's circumstances and the barriers they are experiencing.
- Organisations might like to keep an audit trail to demonstrate they have considered whether an adjustment is reasonable, including how they assessed and balanced different factors for each case.

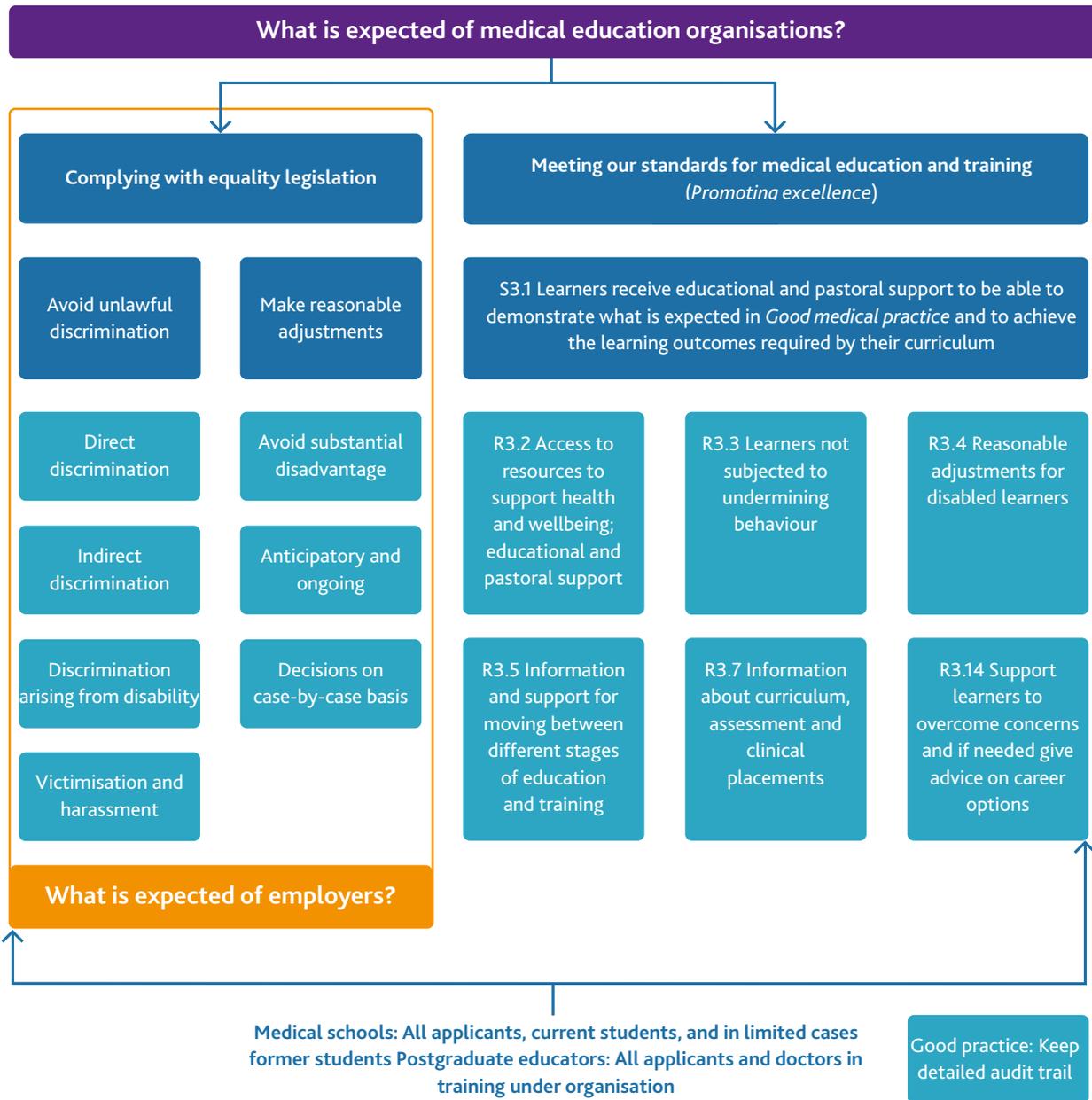
- Medical schools owe this duty to applicants, existing students, and, in limited circumstances, to disabled former students. Postgraduate education organisations owe this duty to all applicants and doctors in training under their organisation, and in limited circumstances to former doctors in training.

The GMC cannot define what adjustments are reasonable in medicine.

Meeting [our standards for medical education and training](#) means following the requirements for supporting disabled learners set out in Theme 3 (R3.2 – R3.5, R3.14, R3.16).

Medical schools must use the competence standards set out in *Outcomes for graduates* to decide if a student can be supported through the course or not.

Employers have the same legal responsibilities as education organisations, in terms of avoiding discrimination and making reasonable adjustments. Employers only have to make adjustments where they are aware – or should reasonably be aware – that an employee has a disability.



# Overriding expectations

Medical education organisations in the UK have two overriding expectations in regards to disability.

- 1 Following equality legislation – the *Equality Act 2010* in England, Scotland and Wales, and the *Disability Discrimination Act 1995* and the *Special Educational Needs and Disabilities Order 2005* in Northern Ireland.
- 2 Meeting our standards and requirements for medical education and training in the UK – in *Promoting excellence* (2015).

## Equality legislation

In undergraduate medical education, the governing body of the university has overall responsibility for complying with equality legislation. In postgraduate training, the postgraduate deaneries and HEE local teams have overall responsibility.

*What do medical education organisations have to do to comply with equality legislation?*

The duties from existing equality legislation are:

- 1 Organisations have to avoid unlawful discrimination against disabled learners (for the purposes of this guidance, more generally also against other protected characteristics). This includes specific types of discrimination, which are explained in more detail in the appendix of this guide: direct discrimination, indirect discrimination, discrimination arising from a disability, harassment and victimisation.
- 2 Organisations have a duty to make reasonable adjustments, in order to avoid putting disabled learners at a substantial disadvantage.

### *The duty to make reasonable adjustments*

The duty\* requires organisations to take positive steps to make sure disabled learners can fully participate in the education and other benefits, facilities and services provided for them.

This means organisations must take reasonable steps when a learner is at a substantial disadvantage because of:

- The way the organisation does things.
- For example, additional provisions or allowances for disabled learners, including extensions to deadlines, permitted periods of absence to attend medical appointments, breaks in teaching sessions, additional regular 1:1 tutorial support or provision of study skills support.

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\* Equality and Human Rights Commission: What are reasonable adjustments? Available online at [www.equalityhumanrights.com/en/advice-and-guidance/what-are-reasonable-adjustments](http://www.equalityhumanrights.com/en/advice-and-guidance/what-are-reasonable-adjustments)

- A physical feature. This could include removing the physical feature, altering it or providing a reasonable means of avoiding it.
  - For example, if locations and physical features are not accessible for learners, then these can be altered through installing ramps, automatic doors, accessible lifts and lift buttons, accessible external paths and landscaping.
- Not providing an auxiliary aid.
  - For example, equipment to help learners follow teaching activities or facilitate clinical practice, such as laptops or handheld devices to take notes or a note-taker to attend lectures, spell checkers, screen readers, an amplified stethoscope, supportive furniture or cushion or lumbar support and adjustable height chairs.

#### *Key things to know about reasonable adjustments*

Organisations must expect the needs of disabled learners. It is the organisation's responsibility to consider support on a case by case basis and decide what adjustments would be 'reasonable' for each individual. It is good practice to keep an audit trail of their decision making.

A request for an adjustment can be declined if it is not deemed 'reasonable', but it is unlawful not to consider reasonable adjustments at all. If the reasonable adjustments provided have not been effective, the organisation may need to consider alternatives. It is good practice to create an inclusive learning environment with adjustments that could help everyone.

## 1 What does reasonable mean?

There is no set definition of what 'reasonable' means.

What is 'reasonable' can only be decided on a case-by-case basis, and will always depend on the individual person and their circumstances.

The Equality and Human Rights Commission advises that whether an adjustment is reasonable depends upon all the circumstances including:<sup>\*</sup>

- if and how effective the change will be in overcoming the disadvantage the disabled person would otherwise experience
- how practicable the changes are
- the cost of making the changes
- the organisation's size and resources
- the availability of financial support.

The Commission has published guidance setting out factors for organisations to consider in assessing whether an adjustment is reasonable.<sup>†</sup> It suggests the following:

- You can treat disabled people better or 'more favourably' than non-disabled people and sometimes this may be part of the solution.
- The adjustment must be effective in helping to remove or reduce any disadvantage the disabled student is facing. If it doesn't have any impact then there is no point.
- It may take several different adjustments to deal with that disadvantage but each change must contribute towards this.
- You can consider whether an adjustment is practical. The easier an adjustment is, the more likely it is to be reasonable. However, just because something is difficult doesn't mean it can't also be reasonable.
- If an adjustment costs little or nothing and is not disruptive, it would be reasonable unless some other factor (such as impracticality or lack of effectiveness) made it unreasonable.
- What is reasonable in one situation may be different from what is reasonable in another situation.
- If advice or support is available then this is more likely to make the adjustment reasonable.
- If you think that making a particular adjustment would increase the risks to the health and safety of anybody then you can consider this when making a decision about whether that particular adjustment or solution is reasonable. But your decision must be based on a proper, documented assessment of the potential risks, rather than any assumptions.

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<sup>\*</sup> Equality and Human Rights Commission, Commonly used terms in equal rights. Available online at: [www.equalityhumanrights.com/en/advice-and-guidance/commonly-used-terms-equal-rights](http://www.equalityhumanrights.com/en/advice-and-guidance/commonly-used-terms-equal-rights)

<sup>†</sup> Equality and Human Rights Commission, What is reasonable? Available online at: [www.equalityhumanrights.com/en/multipage-guide/what-do-we-mean-reasonable](http://www.equalityhumanrights.com/en/multipage-guide/what-do-we-mean-reasonable). Although this guidance is given in the context of employers considering what reasonable adjustments to provide, the principles may also be helpful for education institutions to consider.

If the decision of an organisation is challenged, the issue is whether or not the adjustment is 'reasonable' is ultimately a question for the courts to determine. The Equality and Human Rights Commission says that: 'The test of what is reasonable is ultimately an objective test and not simply a matter of what you may personally think is reasonable.'\*

## 2 How can an organisation expect the needs of disabled learners?

Every organisation should plan ahead and expect the needs of disabled learners and the adjustments that might be made for them. This is regardless of whether they know that a particular person is disabled or whether they currently support any disabled students or doctors.

But it does not mean organisations have to expect the needs of every prospective student or incoming doctor in training. They must think about and take reasonable and proportionate steps to overcome any barriers, for example:

- Adapt the physical environment to help disabled learners
- Give auxiliary aids to learners
- Speak with employers and local education providers to make sure the physical environment would help disabled students and doctors in training, and auxiliary aids can be made available.
- Examine internal policies to see if anything could put disabled people at a disadvantage.
- Consider the impact of changes to the way the organisation does things impact on disabled learners, for example the impact of changes to the course format or curriculum content.
- An example from the Equality and Human Rights Commission<sup>†</sup> is that it may be appropriate for the university to install a hearing loop in lecture theatres to anticipate the needs of students with hearing impairments, but they would not be expected to have a British Sign Language (BSL) interpreter on the payroll.
- An example for postgraduate training organisations is to liaise with the local education providers where they place doctors to make sure locations are accessible. However, postgraduate training organisations would not be expected to have a piece of equipment required for an individual doctor's specific circumstances, before they are aware of this doctor's needs.

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\* Equality and Human Rights Commission, What is reasonable?  
Available online at: [www.equalityhumanrights.com/en/multipage-guide/what-do-we-mean-reasonable](http://www.equalityhumanrights.com/en/multipage-guide/what-do-we-mean-reasonable). Although this guidance is given in the context of employers considering what reasonable adjustments to provide, the principles may also be helpful for education institutions to consider.

† Equality and Human Rights Commission: What are reasonable adjustments?  
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### 3 Which learners does this duty apply to?

Medical schools owe this duty to applicants, existing students, and, in limited circumstances, to disabled former students. This relates to making reasonable adjustments in respect of qualifications awarded by a further or higher education institution. For example, if a former student needs a certificate in a different format as a result of a disability.

Postgraduate training organisations owe this duty to all applicants and doctors in training under their organisation, and, in limited circumstances, to former doctors in training.

### 4 How long does the duty apply for?

The duty is ongoing. If an adjustment has been made and it is not effective in overcoming the disadvantage, then the education body may need to think again – they cannot just assume that, having made one adjustment, their duty is completed.

### 5 Can the organisation not make reasonable adjustments for disabled learners?

An organisation must always show it has considered adjustments. But it can decide not to make an adjustment if it is not 'reasonable' (see Panel 12 in Chapter 4: How can medical schools apply their duties?). If after consideration, an organisation decides not to provide an adjustment on the grounds it is not reasonable, they should consider whether there are any alternative reasonable adjustments that might meet the person's needs.

### 6 Does the organisation need to consider each learner individually?

Yes. Reasonable adjustments must be considered on a case by case basis, taking into account the individual's circumstances and the specific barriers. This is because the impact of a disability or condition will be unique to each individual. Even if two people have the same disability, it might affect them differently, so each may need a different set of adjustments.

## 7 Are there adjustments that will frequently be considered reasonable?

Yes. There will be some adjustments that will be seen as reasonable for a number of students in the context of education and training. For example, extra time for someone with dyslexia when taking an examination after considering each case individually. But there is no prescriptive list. It is good practice for organisations to create an inclusive learning environment that could help all their students and doctors, which may include:

- printing documents on coloured paper
- providing plans, summaries, notes, and handouts in advance of lectures and other teaching activities in electronic format
- providing subtitled or transcribed video material
- reserved areas in all teaching and learning locations, including the library
- ensuring availability of coaching and mentoring.

### Panel 5:

#### Can the GMC provide a list of adjustments that are reasonable in medicine?

The GMC cannot specify what adjustments are reasonable in medicine. We do not have the authority to do this as an organisation.

Because of all the factors taken into account when deciding what is reasonable, it is not possible to give general instructions on whether an adjustment is or is not reasonable in a medical setting. The medical school or employer (in collaboration with postgraduate training organisations) must exercise their judgment to assess and balance these factors. It will not necessarily be easy, but it may be made easier by consulting the individual about their need.\*

An adjustment will not be reasonable if:

- It is not effective in removing or reducing any disadvantage
- If the adjustment alters or reduces the competency required of the learner at the specific stage of training
- If the adjustment poses an unacceptable risk to the safety of the learner or others. This has to be based on an objective assessment of the risk.

\* Equality and Human Rights Commission: What are reasonable adjustments?  
Available online at [www.equalityhumanrights.com/en/advice-and-guidance/what-are-reasonable-adjustments](http://www.equalityhumanrights.com/en/advice-and-guidance/what-are-reasonable-adjustments)

What is considered reasonable depends on the individual and their particular circumstances, so the same adjustment could be considered reasonable under one set of circumstances, but not reasonable under another. For example:

- A doctor in training requests an adaptation to the physical environment so they can work in a trust. The cost of the adaptation could be prohibitive to one organisation, while it could be proportionally lower for another organisation. The first organisation could say the adjustment is not reasonable due to cost, while the second could say it is reasonable (if in line with the other factors considered).
- Two medical students with diagnosed learning disabilities request additional time to complete an assessment. In one student case, this is supported by an expert report recommending additional time as an effective adjustment for the student. In another student case, additional time is not recommended for their particular form of learning disability. The medical school could say the adjustment is reasonable in the first case (if in line with the other factors considered), but not in the second case, if additional time would not be effective in helping the student.

These examples are illustrative. Often situations are more complex than the illustrative examples, so decisions always need to be made on an individual basis.

### Panel 6:

#### Am I disadvantaging or discriminating against others by supporting disabled learners?

No.

The *Equality Act 2010* says it is not direct discrimination against a non-disabled person to treat a disabled person more favourably.

The law allows an organisation to treat a disabled person more favourably if it removes a barrier or disadvantage that the person is experiencing. For example, guaranteeing a placement or training post in a particular location because it is the one closest to the disabled learner's home or where they receive care.

A disabled learner may be at a disadvantage compared to their non-disabled peers before reasonable adjustments are made for them. The reasonable adjustments should aim to remove that disadvantage and bring the disabled person to an 'equal standing' with their peers. It does not give them an unfair advantage over others.

Some illustrative examples are below. Often situations are more complex than the illustrative examples, so decisions always need to be made on an individual basis.

- A student with diabetes is at a disadvantage in a usual exam environment, they may not be able to complete the exam without taking their medication or eating to regulate their sugar levels. By putting a reasonable adjustment in place to allow this student to take breaks from the exam to eat, to rest or to take medication, the medical school can allow them to perform at an equal level with other students who do not have diabetes.

- A doctor with chronic depression needs to attend regular medical appointments with their treating specialist. These cannot always be fitted around their rota. Therefore, the doctor is at a disadvantage compared to their peers, as they might suffer from the effects of their depression, which may interfere with their training and progression. By putting a reasonable adjustment in place to allow time off for attending clinical appointments, or adjusting their rota to attend certain shifts, the employer with the postgraduate training organisation can allow the doctor to overcome that barrier.

## Meeting *Promoting excellence* standards for medical education and training

We have specific standards and requirements within *Promoting excellence* about supporting learners overall, and supporting learners with disabilities (including long term health conditions) in particular.

### *What does Promoting excellence say about supporting disabled learners?*

*Promoting excellence* makes it clear that the purpose of providing effective support to students and doctors is for them to demonstrate what is expected in *Good medical practice* and achieve the learning outcomes required by their curriculum.

We require organisations to:

- give learners access to resources to support their health and wellbeing, and to educational and pastoral support, including (R3.2) confidential counselling services, careers advice and support, and occupational health services.
- make sure learners are not subjected to behaviour that undermines their professional confidence, performance or self-esteem (R3.3)
- make reasonable adjustments for disabled learners, and to make sure learners have access to information about reasonable adjustments, with named contacts (R3.4)
- give learners information and support to help them move between different stages of education and training. The needs of disabled learners must be considered, especially when they are moving from medical school to postgraduate training, and on clinical placements (R3.5)
- give learners timely and accurate information about their curriculum, assessment and clinical placements (R3.7). This is particularly relevant for disabled learners, as having this information in advance will help put any reasonable adjustments or other arrangements (eg travel arrangements for placements that are further away) required in place
- support, where reasonable, learners whose progress, performance, health or conduct gives rise to concerns to overcome these and, if needed, given advice on alternative career options (R3.14).

Medical schools also have responsibilities towards the very small number of medical students who may not be able to meet the competences in *Outcomes for graduates*, after they have exhausted the options for support.

*Promoting excellence* makes it clear that students must not progress if they fail to meet the required learning outcomes for graduates. In these cases, medical schools are required to give advice on alternative career options, including pathways to gain a qualification if this is appropriate. Doctors in training who are not able to complete their training pathway should also be given career advice (R3.16).

### Panel 7:

#### Is there any type of support for a student that is not compatible with clinical practice in the future?

Medical schools must make reasonable adjustments for students with a disability to allow them to demonstrate they have achieved the *Outcomes for graduates*.

There may be times where an adjustment is both unreasonable on a course of study and in the workplace. If a certain level of support or an adjustment may not be available in a specific workplace environment, it does not necessarily mean that a medical school is not obliged to provide it. Ultimately, decisions on reasonable adjustments are matters for medical schools to be taken on the facts of the particular case.

When considering support for a student, the key thing to consider is whether providing a particular form of support or reasonable adjustment would enable a student to demonstrate a relevant competence standard – in this case the *Outcomes for graduates*. We recommend this approach because:

- Outcomes for graduates is an objective set of criteria which every medical student needs to demonstrate, developed with a range of experts in medical education
- there is a risk of making subjective judgments about the student's future abilities as a doctor and the setting where they will practise
- clinical environments vary hugely, and postgraduate educators are responsible for allocating a doctor in training appropriately. This includes finding a post where appropriate support will be available
- It cannot be predicted how someone's health condition or disability will affect them in the future.

# Responsibilities of employers

Employers have the same legal responsibilities as education organisations, in terms of avoiding discrimination and making reasonable adjustments.

The main difference to the education provisions of the Act is that employers do not have to make adjustments to their premises or working practices until they are actually needed by a disabled employee or applicant.

Employers must, however, take reasonable steps to find out if an employee or applicant is a disabled person.

## Employment law

With the contract of employment, different legal provisions come into play. Under Part 5 of the *Equality Act 2010*, discrimination is outlawed in all aspects of employment and occupation including recruitment and selection, including advertising jobs; retention of employees; promotion and training.

- direct discrimination (which includes treating someone less favourably directly because of their disability) is unlawful
- discrimination arising from disability (treating someone less favourably than others for a reason relating to their disability) is unlawful
- reasonable adjustments are expected in all aspects of employment, so must be made to working conditions, job descriptions, training, progression and the workplace environment to enable or help disabled people to do their job
- harassment at work is discriminatory
- an employer must not victimise or treat unfavourably someone disabled or not, because they have made allegations of discrimination or brought a complaint or any action under the Act. A complaint of discrimination may be presented to an Employment Tribunal (Industrial Tribunal in Northern Ireland).